



Reprinted
January 30, 2008

HOUSE BILL No. 1042

DIGEST OF HB 1042 (Updated January 29, 2008 4:56 pm - DI 75)

Citations Affected: IC 23-1; IC 24-4; noncode.

Synopsis: Intent to sell sexually explicit products. Requires a person that intends to sell sexually explicit materials, products, or services to register and file a statement with the secretary of state. Requires the secretary of state to notify certain local officials of the county in which the person locates the business. Provides that a person that sells sexually explicit materials, products, or services without registering and filing the statement commits a Class B misdemeanor.

Effective: July 1, 2008.

Goodin, Harris T, Stutzman

January 8, 2008, read first time and referred to Committee on Family, Children and Human Affairs.

January 24, 2008, amended, reported — Do Pass.

January 29, 2008, read second time, amended, ordered engrossed.

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HB 1042—LS 6421/DI 107+



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January 30, 2008

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

HOUSE BILL No. 1042

A BILL FOR AN ACT to amend the Indiana Code concerning trade regulation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 23-1-55 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2008]:

4 **Chapter 55. Intention to Sell Sexually Explicit Materials,**
5 **Products, or Services**

6 **Sec. 1. A person, firm, corporation, association, partnership,**
7 **limited liability corporation, or other entity that intends to sell**
8 **sexually explicit materials, products, or services shall register with**
9 **the secretary of state the intent to sell sexually explicit materials,**
10 **products, or services and provide a statement detailing the types of**
11 **materials, products, or services that are intended to be sold.**

12 **Sec. 2. (a) As used in this section, "local officials of the county"**
13 **refer to all of the following:**

14 (1) The county executive.

15 (2) If a business described in section 1 of this chapter intends
16 to locate in a municipality, the executive of the municipality.

17 (3) All local zoning boards that have jurisdiction in the

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county.

(b) After receiving a registration described in section 1 of this chapter, the secretary of state shall notify the local officials of the county in which an entity described in section 1 of this chapter intends to sell sexually explicit materials, products, or services of the registration filed under section 1 of this chapter.

SECTION 2. IC 24-4-16 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 16. Sexually Explicit Materials and Services

Sec. 1. As used in this chapter, "person" means an individual, a firm, a corporation, an association, a partnership, a limited liability corporation, or another entity.

Sec. 2. (a) For purposes of this chapter, materials, products, or services are "sexually explicit materials, products, or services" if the materials, products or services are entirely without redeeming social value and:

(1) the average person, applying contemporary community standards, would find that:

(A) the dominant theme of the materials, products, or services, taken as a whole, appeals to the prurient interest in sex; or

(B) the materials, products, or services depict or describe, in a patently offensive way, sexual conduct; or

(2) the materials, products, or services are designed for use in or marketed primarily for:

(A) the stimulation of human genital organs; or

(B) masochism or sadism.

(b) The term does not include:

(1) birth control or contraceptive devices; or

(2) services, programs, products, or materials provided by a communications service provider (as defined in IC 8-1-32.6-3).

Sec. 3. A person or an employee or agent of a person may not sell sexually explicit materials, products, or services unless a registration and statement are properly filed as described in IC 23-1-55-1.

Sec. 4. A person or an employee or agent of a person who knowingly or intentionally violates this chapter commits a Class B misdemeanor.

SECTION 3. [EFFECTIVE JULY 1, 2008] IC 24-4-16-4, as added by this act, applies to offenses committed after June 30, 2008.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Family, Children and Human Affairs, to which was referred House Bill 1042, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between lines 11 and 12, begin a new paragraph and insert:

"Sec. 2. After receiving a registration described in section 1 of this chapter, the secretary of state shall notify:

(1) the county executive; and

(2) all local zoning boards;

located in the county in which a entity described in section 1 of this chapter intends to sell sexually explicit materials, products, or services of the registration filed under section 1 of this chapter."

Page 2, line 15, delete "include" and insert **"include:**

(1)".

Page 2, delete line 16 and insert **"devices; or**

(2) services, programs, products, or materials provided by a communications service provider (as defined in IC 8-1-32.6-3)."

Page 2, line 22, delete "recklessly" and insert **"knowingly or intentionally"**.

and when so amended that said bill do pass.

(Reference is to HB 1042 as introduced.)

SUMMERS, Chair

Committee Vote: yeas 8, nays 0.

 HOUSE MOTION

Mr. Speaker: I move that House Bill 1042 be amended to read as follows:

Page 2, line 10, delete "if:" and insert **"if the materials, products or services are entirely without redeeming social value and:"**.

(Reference is to HB 1042 as printed January 25, 2008.)

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1042 be amended to read as follows:

Page 1, delete lines 12 through 17, begin a new paragraph and insert:

"Sec. 2. (a) As used in this section, "local officials of the county" refer to all of the following:

(1) The county executive.

(2) If a business described in section 1 of this chapter intends to locate in a municipality, the executive of the municipality.

(3) All local zoning boards that have jurisdiction in the county.

(b) After receiving a registration described in section 1 of this chapter, the secretary of state shall notify the local officials of the county in which an entity described in section 1 of this chapter intends to sell sexually explicit materials, products, or services of the registration filed under section 1 of this chapter."

Page 2, delete line 1.

(Reference is to HB 1042 as printed January 25, 2008.)

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